

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Eric Humphreys,

Case No. 17-cv-3521 (JNE/LIB)

Plaintiff,

v.

REPORT AND RECOMMENDATION

Saint Louis County Duluth Court
Administration,

Defendant.

This matter comes before the undersigned United States Magistrate Judge upon the routine supervision of the cases that pend before the Court pursuant to a general assignment made in accordance with the provisions of 28 U.S.C. § 636.

On August 2, 2017, Plaintiff Eric Humphreys commenced this action by filing a Complaint. ([Docket No. 1]). He did not pay the required filing fee for this case, but instead filed an application seeking leave to proceed *in forma pauperis* (“IFP”). (See, Application, [Docket No. 3]).

In an Order dated September 18, 2017, the undersigned informed Plaintiff that his Complaint failed to adequately plead factually allegations which stated a claim and the only named defendant appears to be an entity which is protected from suit by Eleventh Amendment immunity. (Order, [Docket No. 4], 2-3). The undersigned gave Plaintiff the opportunity to file an Amended Complaint which provides the required information. (Id. at 3-4). The undersigned also cautioned Plaintiff that if he did not submit an Amended Complaint on or before October 18, 2017, the undersigned would recommend dismissal without prejudice. (Id.).

The October 18, 2017, deadline has now passed, and Plaintiff has not filed an Amended Complaint, nor has Plaintiff filed a motion requesting an extension of the deadline to file an Amended Complaint set forth in this Court's September 18, 2017, Order.

Accordingly, the undersigned now recommends, in accordance with its September 18, 2017, Order, that this action be dismissed without prejudice under Rule 41(b) for failure to prosecute. See, Henderson v. Renaissance Grand Hotel, 267 Fed. App'x 496, 497 (8th Cir. 2008) (per curiam) ("A district court has discretion to dismiss an action under Rule 41(b) for a plaintiff's failure to prosecute, or to comply with the Federal Rules of Civil Procedure or any court order.").

RECOMMENDATION

Based upon the foregoing, and on all of the files, records, and proceedings herein, **IT IS HEREBY RECOMMENDED** that this action be **DISMISSED WITHOUT PREJUDICE** under Fed. R. Civ. P. 41(b) for failure to prosecute.

Dated: October 23, 2017

s/Leo I. Brisbois

Leo I. Brisbois
United States Magistrate Judge
District of Minnesota

NOTICE

Filing Objections: This Report and Recommendation is not an order or judgment of the District Court and is therefore not appealable directly to the Eighth Circuit Court of Appeals.

Under Local Rule 72.2(b)(1), “a party may file and serve specific written objections to a magistrate judge’s proposed finding and recommendations within 14 days after being served a copy” of the Report and Recommendation. A party may respond to those objections within 14 days after being served a copy of the objections. LR 72.2(b)(2). All objections and responses must comply with the word or line limits set forth in LR 72.2(c).